

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WILLIAM SCALES,

Plaintiff,

-against-

AMERICAN WEB CODERS; SILICON
GRAPHICS,

Defendants.

1:23-CV-6448 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

By order dated October 10, 2023, the Court granted Plaintiff, who appears *pro se*, leave to file an amended complaint within 60 days. That order specified that failure to comply would result in dismissal of this action for the reasons set forth in that order, namely, for lack of subject matter jurisdiction and as brought in the wrong venue. (*See* ECF 6, at 11.) Plaintiff has not filed an amended complaint. Accordingly, the Court dismisses this action for lack of subject matter jurisdiction and as brought in the wrong venue. *See* 28 U.S.C. § 1406(a); Fed. R. Civ. P. 12(h)(3). The Court therefore denies Plaintiff's application for the Court to request *pro bono* counsel as moot.¹ (ECF 4.)

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

¹ The Court notes that, on January 10, 2024, Plaintiff also filed a letter requesting service by the United States Marshals Service. (ECF 7.) Because the Court dismisses this action, it denies that request as moot as well.

The Court directs the Clerk of Court to enter a judgment dismissing this action for the reasons set forth in this order.

SO ORDERED.

Dated: January 12, 2024
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge